Pellegrino, Rachel

From: Morris, Craig
Sent: Tuesday, January 04, 2011 5:25 PM
To: Brown, Brian (TM)
Subject: FW: Small Business Study

From: mglassic@y-stress.com [(b)(6)]
Sent: Sunday, December 19, 2010 12:52 PM
To: TMFeedback
Cc: David Nieves
Subject: Small Business Study

1. Please identify whether you are a trademark owner or practitioner, and the general size and nature of your business or trademark practice, including the number of trademark applications and registrations your business has, or your practice handles. Please note that the USPTO will fully consider any comments you submit, even if you choose not to identify yourself in a particular manner.

I operate an informational website for a planned community in PA. The Association (Stillwater Lakes Civic Association) is suing me for Trademark Infringement because I purchased the domain names stillwaterlakes.net and .com. They have no trademark, or products and services. Stillwater Lakes is a plotted subdivision in the local court.

2. In approximately the last 5 years, please describe any instances of which you have first-hand knowledge where a small business may have been the target of litigation tactics attempting to enforce trademark rights beyond a reasonable interpretation of the scope of the rights granted to the trademark owner.

Stillwater Lakes Civic Association v. Gorka
Legal Claims: Cybersquatting, Trademark Infringement, Trademark Dilution, Unfair Competition

3. Please describe situations where you have been involved in receiving a cease-and-desist letter. Anecdotal information might include, but is not limited to, a description of whether the letter resulted in the small business ceasing its use of one or more marks, or whether the sender of the cease-and-desist letter withdrew or abandoned its demands against the small business owner.

I received a cease-and-desist letter claiming the two website domains, www.stillwaterlakes.net and www.stillwaterlakes.com constitute trademark infringement. The Association claims it has the exclusive rights to these names, and want me to:
Transfer their registration of the domain names to the Association
Disable the website operated at www.stillwaterlakes.net www.stillwaterlakes.com
Stop using the acronym SLCA
Never start a similar website

4. Please describe situations where you have been involved in trademark litigation in state or federal courts.
See No. 2 above, the litigation is on going.

5. Please describe situations where you have been involved in opposition/cancellation proceedings instituted at the USPTO against small business owners. NA

6. Do you think trademark "bullies"[1] are currently a problem for trademark owners, and if so, how significant is the problem?

Based on my experience trademark "bullies"are currently a problem for even non-trademark owners. In my situation they are using Trademark law where there is no trademark or products and services.

7. Do you think aggressive litigation tactics are more pervasive in the trademark area than in other areas of the law?
This is my first experience with "trademark bullying" so I can't speak to other areas of the law.

8. Do you think the USPTO has a responsibility to do something to discourage or prevent trademark bullying? If yes, what should the USPTO do?
Yes, adopt previsions where a trademark holder can risk losing its trademark if found guilty of trademark bullying.

9. Do you think the U.S. courts have a responsibility to do something to discourage trademark bullies? If yes, what should the U.S. courts do? Yes, make sanctions fit the crime. Go beyond simple attorney fees.

10. What other U.S. agencies may have a responsibility to do something about the problem? US Better Business Bureau.

11. Do you think Congress has a responsibility to do something to discourage or prevent trademark bullying? If yes, what should Congress do? Yes By enacting legislation to give the courts and other agencies the power to discourage or prevent trademark bullying.

12. Please provide any other comments you may have. Please visit www.stillwaterlakes.net for more information.